IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

FRIDAY, THE 16TH MARCH 2007 / 25TH PHALGUNA 1928

OP.No. 12115 of 2003(P)

PETITIONER:

G.SOMAN NAIR, AGED 51 YEARS,
SON OF GOPALA PILLAI, RESIDENT OF `REKHA NIVAS',
KADUVAL, PERUMBAVOOR-683 542, ERNAKULAM DIST.,
NOW RESIDING AT KANAVILA HOUSE, MYLAM,
CHERIYAKONNI POST, THIRUVANANTHAPURAM-13.

BY ADV. SRI.K.L.NARASIMHAN

RESPONDENTS:
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1. KERALA WATER AUTHORITY,
REPRESENTED BY ITS MANAGING DIRECTOR, JALA BHAVAN,
VELLAYAMBALAM, THIRUVANANTHAPURAM.

2. SUPERINTENDING ENGINEER,
PUBLIC HEALTH CIRCLE, KOTTAYAM.

3. EXECUTIVE ENGINEER,
PUBLIC HEALTH DIVISION, KERALA WATER AUTHORITY,
KOTTAYAM.

BY ADV. SMT.AMBIKA DEVI, SC, KWA

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 16/03/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

ORDER ON CMP 20815 OF 2003 IN OP 12115 OF 2003

DISMISSED

16.3.2006 SD/-C.N. RAMACHANDRAN NAIR, JUDGE.

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1 DATED 22.3.2000 TRUE COPY OF THE ACCEPTED SCHEDULE ISSUED BY THE 2ND RESPONDENT TO THE PETITIONER.

EXT.P2 TRUE COPY OF THE ORIGINAL PLAN FOR THE CONSTRUCTION

EXT.P3(a) DATED 7.8.2000 TRUE COPY OF THE REPRESENTATION BY THE PETITIONER BEFORE THE THIRD RESPONDENT.

EXT.P3(b) DATED 6.10.2000 TRUE COPY OF THE REPRESENTATION BY THE PETITIONER BEFORE THE SECOND RESPONDENT.

EXT.P3(c) DATED 13.9.2001 TRUE COPY OF THE REPRESENTATION BY THE PETITIONER BEFORE THE SECOND RESPONDENT.

EXT.P3(d) DATED 20.12.2001 TRUE COPY OF THE REPRESENTATION BY THE PETITIONER BEFORE THE THIRD RESPONDENT.

EXT.P3(e) DATED 7.6.2002 TRUE COPY OF THE REPRESENTATION BY THE PETITIONER BEFORE THE THIRD RESPONDENT.

EXT.P3(f) DATED 30.6.2002 TRUE COPY OF THE REPRESENTATION BY THE PETITIONER BEFORE THE SECOND RESPONDENT.

EXT.P3(g) DATED 8.7.2002 TRUE COPY OF THE REPRESENTATION BY THE PETITIONER BEFORE THE THIRD RESPONDENT.

EXT.P3(h) DATED 5.10.2002 TRUE COPY OF THE REPRESENTATION BY THE PETITIONER BEFORE THE SECOND RESPONDENT.

EXT.P3(i) DATED 5.10.2002 TRUE COPY OF THE REPRESENTATION BY THE PETITIONER BEFORE THE ASST. EXE. ENGINEER.

EXT.P3(j) DATED 6.10.2002 TRUE COPY OF THE REPRESENTATION BY THE PETITIONER BEFORE THE SECOND RESPONDENT.

EXT.P4 DATED 4.7.2002 TRUE COPY OF THE LETTER BY THE THIRD RESPONDENT TO THE PETITIONER.

EXT.P5 DATED 24.9.2002 TRUE COPY OF THE LETTER BY THE SECOND RESPONDENT TO THE PETITIONER.

EXT.P6 DATED 30.10.2002 TRUE COPY OF THE LETTER BY SECOND RESPONDENT TO THE PETITIONER REGARDING TERMINATION OF CONTRACT.

EXT.P7 DATED 20.12.2002 TRUE COPY OF THE LETTER BY THE ASST. EXE. ENGINEER WSP SUB DIV. TO THE PETITIONER.

EXT.P8 DATED 7.2.2003 TRUE COPY OF THE REPRESENTATION BY THE PETITIONER BEFORE

THE SECOND RESPONDENT TO RECONSIDER THE TERMINATION ORDER.

EXT.P9 DATED 28.11.2002 TRUE COPY OF THE LETTER SENT BY THE SECOND RESPONDENT TO THE EXE. ENGINEER, TRIVANDRUM.

EXT.P10 DATED 18.3.2003 TRUE COPY OF THE NOTIFICATION APPEARED IN MATHRU BHUMI REGARDING THE NOTIFICATION INVITING TENDERS.

2ND RESPONDENT'S EXHIBITS:

EXT.R2(a) TRUE COPY OF ORDER NO. PHCK-K-3577/78 DATED 22.3.2000 ISSUED BY THE SUPDT. ENGINEER TO THE PETITIONER.

EXT.R2(b) TRUE COPY OF THE ABSTRACT OF AGREEMENT NO. 6/SE PHCK/2000-01 DATED 25.7.2000

EXT.R2(c) TRUE COPY OF LETTER NO. AB4-24/98 DATED 23.10.2002 OF THE ASST. EXE. ENGINEER, WSP SUB DIVISION, KERALA WATER AUTHORITY, PALA.

EXT.R2(d) TRUE COPY OF LETTER ADDRESSED TO THE EXECUTIVE ENGINEER DATED 20.12.2002

TRUE COPY

P.S. TO JUDGE.

C.N.RAMACHANDRAN NAIR,J.

O.P. NO. 12115 OF 2003

Dated this the 16th day of March, 2007

JUDGMENT

While the case of the petitioner is that he has not completed the work on account of delay in supply of materials by the Water Authority, standing counsel for the Water Authority submitted that Water Authority has supplied entire materials in time most of which is cement as is evident from the details furnished in the counter affidavit and petitioner deliberately discontinued the work from March, 2001 onwards. I do not think there is any scope for deciding the controversy in writ proceedings because the dispute arises under a contract between parties. It is upto the petitioner to file a civil suit before the civil court if the petitioner has any claim against the respondents. O.P. is accordingly dismissed leaving freedom to the respondents to proceed for recovery of amounts payable in accordance with tender conditions and terms of contract between the parties.

(C.N.RAMACHANDRAN NAIR)
Judge